IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO: 16132 of 2004

Between:

M.Subbamma, W/o M.V.Narapa Reddy,

R/o Gurrapadia Village, Kondepi Mandal, Prakasam District.

.... PETITIONER

AND

1 The District Collector, Ongole, Prakasam District.
2 The Revenue Divisional Officer, Kandakur, Prakasam

District.

3 The Mandal Revenue Officer, Kondepi Mandal,

Prakasam District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of MANDAMUS, declaring the proceedings of the 2nd respondent dt.02-09-2004 in D.Dis.F1968/2004 as illegal, arbitrary, unconstitutional, unreasonable, as against

the principles of natural justice and consequently set aside the same and pass such other order orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.N.SUBBA RAO

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage, made the following:

ORDER:

The petitioner was appointed as a Fair Price shop dealer, on 01.7.1986. Her authorization was suspended by the second respondent through proceedings, dated 02.09.2004. The same is challenged in this writ petition.

2. Learned counsel for the petitioner submits that under clause (5) of the A.P. State Public Distribution System Control Order, 2001 (for short "the control orders"), a show cause notice has to be issued to a dealer before the authorization is suspended, and that the petitioner was not issued any such notice. He further contends that the second respondent arrived at several conclusions on the basis of the alleged verification of records, without hearing the petitioner, and as such, the impugned order cannot be sustained.

3. Learned Government Pleader for Civil Supplies, on the other hand, submits that the impugned order is passed on the basis of verification of records furnished by the petitioner to the third respondent, and that no exception can be taken to the same. He also contends that the petitioner can avail the remedy of appeal to the Joint Collector, and that the present writ petition is not maintainable.

4. It is true that an appeal is provided for, under the control orders, to the Joint Collector, against the order of suspension and cancellation of authorization. However, where such an order is passed in contravention of principles of natural justice, and without issuing any notice to the aggrieved party, the alternative remedy

would not be a bar for this Court to adjudicate upon the same.

5. A perusal of the impugned order discloses that the second respondent relied upon a report submitted by the third respondent, who, in turn, is said to have verified and corrected the records. Clause (5) of the Control Order mandates that before any order of suspension of authorization is passed, the dealer has to be issued a show cause notice. The impugned order does not disclose that any such notice was issued. Even if the respondents have definite information as to any contravention on the part of the petitioner, they were under obligation to call upon the petitioner to submit her explanation, about the alleged irregularities noticed by them. Inasmuch as the orders were passed without following the procedure and without observing the principles of natural justice, the impugned order is set aside and the writ petition is accordingly allowed. It is, however, left open to the respondents to take such action, as they propose to, duly following the procedure prescribed under the control orders. There shall be no order as to costs.

Sd/-

ASSISTANT REGISTRAR

RAR

To

1 The District Collector, Ongole, Prakasam District.
2 The Revenue Divisional Officer, Kandakur, Prakasam

District.

3 The Mandal Revenue Officer, Kondepi Mandal,

Prakasam District.

4 2 CCs to G.P for Civil Supplies, High Court Buildings,

Hyderabad (OUT)

5 2 CD copies